

jc685 U.S. PTO  
01/24/00

PATENT  
ATTORNEY DOCKET NO.: 046700-5010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Assistant Commissioner for Patents  
**BOX PATENT APPLICATION**  
Washington, D.C. 20231

jc511 U.S. PTO  
09/490867  
01/24/00

**TRANSMITTAL FOR A NEWLY EXECUTED  
ORIGINAL APPLICATION UNDER 37 C.F.R. § 1.53(b)**

This is a request for filing a patent application under 37 C.F.R. § 1.53(b) for:

Inventor(s): Sam E. KINNEY, Jr.

For: METHOD AND SYSTEM FOR CORRECTING MARKET FAILURES WITH  
PARTICIPANT ISOLATION IN DUTCH STYLE ONLINE AUCTIONS

1. This is a new ☒ Utility ☐ Design ☐ Plant patent application.

2. The papers enclosed to obtain a filing date are as follows:

41 Pages of Specification including

01 Title Page

13 Pages of Claims

01 Page(s) of Abstract

10 Sheets of ☐ FORMAL ☒ INFORMAL drawings containing 14 Figures

☐ The enclosed drawing(s) are photograph(s), and there is also attached a  
PETITION TO ACCEPT PHOTOGRAPH(S) AS DRAWING(S)

3. Combined Declaration and Power of Attorney

☒ Enclosed and is executed by all inventors.

☐ Not Enclosed.

This application is being filed under the provisions of 37 C.F.R. § 1.53(f).

Applicant(s) await notification from the Patent and Trademark Office of the time  
set for filing the Declaration and paying the filing fees.

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## 4. Language

☒ English☐ Non-English

This application is being filed in accordance with 37 C.F.R. ' 1.52(d) and ' 608.01 of the MPEP. Applicant(s) await notification from the Patent and Trademark Office of the time set for filing the verified English translation and the processing fee.

## 5. Assignment

☒ An assignment of the invention to FreeMarkets, Inc. and a PTO Form-1595, Recordation Form Cover Sheet, are enclosed.

☐ An assignment will be filed at a later date.

## 6. Priority - foreign applications under 35 U.S.C. § 119(a)-(d) or § 365(b) or PCT international applications under 35 U.S.C. § 365(a) designating at least one country other than the U.S.

☐ Priority of the following foreign application(s) is claimed:

Country	Application No.	Filed

Certified copy(ies): ☐ is/are attached. ☐ will follow.

## 7. Priority based on provisional application(s) - 35 U.S.C. § 119(e)

☐ Priority of the following provisional application(s) is claimed:

Application No.	Filed

## 8. Relate Back - 35 U.S.C. § 119(e)

- ☐ Amend the specification by inserting before the first line the sentence:  
 "This application claims priority of copending provisional application(s)  
 No. \_\_\_\_\_ filed on \_\_\_\_\_."

## 9. Small entity status

- ☒ A statement claiming small entity status under 37 C.F.R. §§ 1.9 and 1.27 is enclosed. (copy)

## 10. Fee Calculation (37 C.F.R. § 1.16)

CLAIMS FOR FEE CALCULATION				
	Number Filed	Number Extra	at Rate of	Basic Fee Utility \$690.00 Design \$310.00
Total Claims (37 C.F.R. § 1.16(c))	46 - 20 =	26	\$ 18.00 each=	+ \$468.00
Independent Claims (37 C.F.R. § 1.16(b))	13 - 3 =	10	\$ 78.00 each=	+ 780.00
Multiple dependent claim(s), if any (37 C.F.R. § 1.16(d))			\$260.00	+ 0.00
SUB-TOTAL =				1,938.00
Reduction by 2 for filing by a small entity				- \$ 969.00
TOTAL FILING FEE =				\$ 969.00

## 11. Fee Payment

- ☐ Not Enclosed. **NO FEE IS BEING PAID BY CHECK OR DEPOSIT ACCOUNT AT THIS TIME.**  
 This application is being filed under the provisions of 37 C.F.R. § 1.53(f).  
 Applicant(s) await notification from the Patent and Trademark Office of the time set for filing the Declaration and paying the filing fees.
- ☒ Enclosed.  
 A check(s) in the amount of \$1,009.00 to cover the \$969.00 filing fee and \$40.00 recordation of assignment fee is enclosed.

12. [X] **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

13. Additional papers enclosed:

- [ ] Preliminary Amendment
- [ ] Information Disclosure Statement
- [ ] Form PTO-1449, \_\_\_\_\_ references included
- [ ] Declaration of Biological Deposit
- [ ] Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

**Please accord this application an application number and filing date.**

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**



Mary Jane Boswell  
Reg. No. 33,652

Dated: January 24, 2000

**Customer No. 009629**  
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004260 29905460

**STATEMENT CLAIMING SMALL ENTITY STATUS**  
**37 C.F.R. §§1.9(f) and 1.27(c)-SMALL BUSINESS CONCERN**

Applicant or Patentee: Sam KINNEY  
Application or Patent No.: Unassigned  
Filed or Issued: Herewith

Title: METHOD AND SYSTEM FOR CORRECTING MARKET FAILURES WITH PARTICIPANT ISOLATION IN  
DUTCH STYLE ONLINE AUCTIONS

I hereby state that I am

- ☐ the owner of the small business concern identified below:  
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: FreeMarkets, Inc.

ADDRESS OF CONCERN: One Oliver Plaza, 210 Sixth Avenue, Pittsburgh, Pennsylvania 15222

I hereby state that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. §121, and reproduced in 37 C.F.R. §1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby state that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled METHOD AND SYSTEM FOR CORRECTING MARKET FAILURES WITH PARTICIPANT ISOLATION IN DUTCH STYLE ONLINE AUCTIONS

described in:

- ☒ the specification filed herewith with the title as listed above.  
☐ the application identified above.  
☐ the patent identified above.

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights in the invention is listed below and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 C.F.R. §1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 C.F.R. §1.9(d) or a nonprofit organization under 37 C.F.R. §1.9(e).

NAME:		
ADDRESS:		
<input type="checkbox"/> INDIVIDUAL	<input type="checkbox"/> SMALL BUSINESS CONCERN	<input type="checkbox"/> NON PROFIT ORGANIZATION
NAME:		
ADDRESS:		
<input type="checkbox"/> INDIVIDUAL	<input type="checkbox"/> SMALL BUSINESS CONCERN	<input type="checkbox"/> NON PROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small business entity is no longer appropriate. (37 C.F.R. §1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Sam E. Kinney, Jr.

TITLE OF PERSON IF OTHER THAN OWNER: Executive Vice President

ADDRESS OF PERSON SIGNING: FreeMarkets, Inc., One Oliver Plaza, 210 Sixth Avenue

Pittsburgh, Pennsylvania 15222

SIGNATURE

DATE

10/11/99